

7/24/06

ALAR18.001APC

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Millar et al.
App. No	:	10/543,017
Filed	:	July 22, 2005
For	:	ASSAY FOR DETECTING METHYLATION CHANGES IN NUCLEIC ACIDS USING AN INTERCALATING NUCLEIC ACID
Examiner	:	Not yet assigned.
Art Unit	:	Unknown

PETITION UNDER 37 C.F.R. 1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request that the Declaration Under 37 C.F.R. § 1.63 be accepted without the signature of Dr. George Miklos, one of the inventors of the above-referenced application. As evidenced by the enclosed Declarations in Support of the Petition Under 37 C.F.R. §1.47 (a), Dr. Miklos has refused to join in the application, and will not sign the Declaration.

The required fee under 37 C.F.R. § 1.17(g) is enclosed herewith. Favorable consideration of this petition is respectfully requested. Please charge any additional fees, including any fees for additional extensions of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated:

July 20, 2006

By:

Neil S. Bartfeld
Neil S. Bartfeld, Ph.D.
Registration No. 39,901
Agent of Record
Customer No. 20,995
(619) 235-8550

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DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.47(a)

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. I am an Australian patent attorney supervising prosecution of the above-referenced patent application on behalf of my client, Human Genetic Signatures Pty. Ltd.
2. On May 3, 2006 at the request of Rob Birrell, Chief Executive Officer (CEO) of Human Genetic Signatures Pty. Ltd., I contacted Dr. George Miklos, one of the inventors of the above-referenced application, by telephone regarding signing the declaration and assignment documents. I was verbally informed that Dr. Miklos refused to sign the declaration and assignment documents under the present circumstances between him and the assignee, Human Genetic Signatures Pty. Ltd.

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3. On May 23, 2006, I again contacted Dr. Miklos by telephone regarding the declaration and assignment documents and was verbally informed that he still refused to sign the declaration and assignment documents.
4. At a meeting between me and Dr. Miklos on May 25, 2006, I was again informed that Dr. Miklos would not sign the declaration and assignment documents.
5. On June 28, 2006, I contacted Dr. Miklos by telephone regarding the declaration and assignment documents and was again verbally informed that he still refused to sign the declaration and assignment documents.
6. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of any patent issuing thereon.

Dated: 19/07/06

By: Trevor J. Davies

Dr. Trevor J. Davies
Partner
Allens Arthur Robinson Patent & Trademark
Attorneys
Sydney, NSW Australia.

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DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.47(a)

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. I am the Chief Executive Officer (CEO) of Human Genetic Signatures Pty. Ltd., the assignee of the present invention.
2. On April 20, 2006, we sent declaration and assignment documents by mail to the last known address of Dr. George Miklos, one of the inventors of the above-referenced application. This address is 19 Bungan Head Road, Newport NSW 2108 Australia.
3. On May 2, 2006, I attempted to contact Dr. Miklos, via e-mail regarding signing the Declaration and assignment documents. A copy of this communication is enclosed herewith. I received no reply to my e-mail.



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4. On May 3 2006, I asked our Australian patent attorney, Dr. Trevor Davies, via email to follow up the signing of declaration and assignment documents with Dr. Miklos. A copy of this communication is enclosed herewith.
5. On or around May, 4 2006, I was informed by Dr Davies verbally that Dr. Miklos had indicated that he was not prepared to sign the declaration and assignment documents.
6. On July 4, 2006, I attempted to contact Dr. Miklos, via e-mail regarding his unwillingness to sign the declaration and assignment documents. A copy of this communication is enclosed herewith. I received no reply to my e-mail.
7. All other inventors (Dr. Douglas Millar, Dr. John Melki and Dr. Geoffrey Grigg) have signed the declaration and assignment documents for the above-referenced application.
8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of any patent issuing thereon.

Dated:

19 July 2006

By:


Rob Birrell
Chief Executive Officer
Human Genetic Signatures Pty. Ltd.

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Davies, Trevor

From: Rob Birrell [rob@geneticsignatures.com]
Sent: Tuesday, 2 May 2006 8:04 AM
To: 'George Miklos'
Cc: Page, Megan; Davies, Trevor
Subject: FW: US Patent Application for Assay for Detecting Methylation Changes in Nucleic Acids using an Intercalating Nucleic Acid

George,

These documents were sent to you on April 20.

Would you please advise the current status.

Thanks and regards

-----Original Message-----

From: Page, Megan [mailto:Megan.Page@aar.com.au]
Sent: Thursday, 20 April 2006 2:18 PM
To: Rob Birrell
Subject: US Patent Application for Assay for Detecting Methylation Changes in Nucleic Acids using an Intercalating Nucleic Acid

Dear Rob

US Patent Application No 10/543,017
For 'Assay for Detecting Methylation Changes in Nucleic Acids using an Intercalating Nucleic Acid'

Thank you, we received all of the pages that you sent through by fax.

We have forwarded the partially executed Declaration, Assignment and Power of Attorney (not signed by George Miklos) for the above application to our US associate. For US purposes, the assignment document must refer to the US national phase application, therefore, our associate needs to file the specific US assignment executed by all of the inventors. Please have George Miklos sign the documents for this application and return them to us by fax or email as soon as possible.

Please also forward the original documents for us to forward to our US associate. As the deadline for filing these documents is 23 April 2006, we have asked our associate to request a one month extension of time to 23 May 2006.

We look forward to hearing from you.
Regards

Dr Trevor Davies/Dr Megan Page
Allens Arthur Robinson
Phone: 61 (2) 9230 4000

Davies, Trevor

From: Rob Birrell [rob@geneticsignatures.com]

Sent: Wednesday, 3 May 2006 12:31 PM

To: Davies, Trevor; Page, Megan

Subject: George's specific patent assignments

Trevor / Megan,

I have not received any correspondence nor reply from my messages to George Mikos regarding the execution of certain assignment documentation.

Has it been sent directly to you?

Trevor, if you have not received it would you please contact George and request it directly, and advise.

Thanks and regards

18/07/2006

Davles, Trevor

From: Rob Birrell [rob@geneticsignatures.com]
Sent: Tuesday, 4 July 2006 8:20 AM
To: 'George Miklos'
Cc: Davles, Trevor
Subject: FW: Documents for 2.4 - US 10/543017
Importance: High

George,

Would you please advise whether you are now prepared to execute the documents as suggested by our Attorney's.

[Trevor, please follow up and provide him with copies or whatever is appropriate].

Thankyou